

REMARKS

The present amendment is responsive to the Official Action mailed on February 2, 2011. A petition for a two-month extension of the term for response to said Official Action, to and including July 2, 2011, is transmitted herewith. As July 2, 2011 is a Saturday, and Monday, July 4, 2011 is a Federal holiday, the present response is timely filed with a certificate of transmission dated July 5, 2011. A Request for Continued Examination is also submitted herewith.

Claims 7-9 and 19-25 are pending in the application, with claims 7 and 19 being independent. Claims 24-25 have been added, and claims 7, 9, and 19 have been amended herein. No new matter is presented by the above amendments.

In view of the above amendments and following remarks, reconsideration of the Examiner's rejections is respectfully requested.

I. CLAIM REJECTIONS - 35 U.S.C. § 112

In the Official Action, the Examiner rejected claim 9 under 35 U.S.C. § 112 as being indefinite, as the Examiner was "unsure whether or not the pair of elongate slots contains the originally claimed slot of claim 8." (Official Action 3.) Claim 9 has been amended herein to clarify the claim, and it now recites that "a second elongated slot is located on an opposite side of said wall from said elongated slot." Accordingly, it is believed that the § 112 rejection has been overcome.

II. CLAIM REJECTIONS - 35 U.S.C. § 102

Claims 7-8 and 22 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,928,238 to Scarborough *et al.* ("*Scarborough*").

Scarborough discloses various embodiments of a device for cutting dowels from a bone mass. The device 10 is connected to a drill 20 and includes a cylindrical cutting blade 40 and an

internal support shaft 42 connected to a drill guide member 44. The drill guide member 44 is shaped to provide a small pilot hole at the surface of the bone B. As shown in FIGS. 2-4, the combination of the support shaft 42 and the drill guide member 44 are movable along the longitudinal axis of the device 10 while the cutting blade 40 cuts into the bone B, such that the drill guide member 44 remains at the surface of the bone while the cutting blade 40 moves downward into the bone (see FIG. 4). The support shaft 42 has a flange 48 that projects through a slot 50 in the device.

In the Official Action, the Examiner contended that the combination of the support shaft 42 and the drill guide member 44 of *Scarborough* corresponds to the claimed "guide wire," that the cutting blade 40 corresponds to the "cutting element" of the "rotatable boring tool," and that the slot 50 corresponds to the recited "elongated opening." (See Official Action 3-4.)

Independent claim 7 has been amended herein to recite, *inter alia*, that "the guide wire is extendable into the bone distally beyond the cutting element of the boring tool and up to the desired depth of the channel to be formed by the cutting element." In contrast, the contended "guide wire" of *Scarborough* (support shaft 42 and drill guide member 44) remains at or proximal from the surface of the bone while the contended "cutting element" (cutting blade 40) cuts distally into the bone. Indeed, the drill guide member 44 of *Scarborough* has a substantially wider portion just proximally from its distal tip that would prevent the drill guide member 44 from extending into the bone up to the depth that the cutting blade 40 extends.

Thus, currently amended independent claim 7 distinguishes over *Scarborough*, and it is respectfully requested that the rejection of claim 7 over *Scarborough* be withdrawn. Due at least to the dependency of claims 8 and 22 from claim 7, the

rejection of such dependent claims over *Scarborough* should also be withdrawn.

III. CLAIM REJECTIONS - 35 U.S.C. § 103

Claims 9, 19-21, and 23 were rejected under 35 U.S.C. § 103(a) as being anticipated by *Scarborough*.

Claim 9 depends from independent claim 7. Therefore, since *Scarborough* fails to meet all of the features of currently amended independent claim 7, as discussed above, *Scarborough* also fails to meet all of the features of claim 9. Thus, the rejection of claim 9 should be withdrawn.

Independent claim 19 has been amended herein to recite, *inter alia*, that "the guide wire [is] extendable into a bone distally beyond the cutting tool of the shank and up to a desired depth of a bore to be formed by the cutting tool." For similar reasons to those discussed above with respect to claim 7, the rejection of claim 19 over *Scarborough* should also be withdrawn. That is, the contended "guide wire" of *Scarborough* (support shaft 42 and drill guide member 44) remains at or proximal from the surface of the bone while the contended "cutting tool" (cutting blade 40) cuts distally into the bone.

Thus, currently amended independent claim 19 distinguishes over *Scarborough*, and it is respectfully requested that the rejection of claim 19 over *Scarborough* be withdrawn. Due at least to the dependency of claims 20-21 and 23 from claim 19, the rejection of such dependent claims over *Scarborough* should also be withdrawn.

IV. DEPENDENT CLAIMS

Although Applicants have not separately argued for the patentability of all of the pending dependent claims, Applicants' failure to do so is not to be taken as an admission that the features of such dependent claims are not themselves separately patentable over the references cited by the Examiner.

Indeed, it is believed that the dependent claims include additional patentable subject matter beyond that found solely in the independent claims. For example, new dependent claims 24 and 25 recite that "the guide wire is a Kirschner wire," which provides even further distinctions over *Scarborough*.

V. CONCLUSION

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: July 5, 2011

Respectfully submitted,
Electronic signature: /Gregory
M. Reilly/
Gregory M. Reilly
Registration No.: 64,006
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicants